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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,284	02/14/2002	Jeffrey M. Harrington	10015.02	3297
43997	7590	03/28/2005	EXAMINER	
OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			NAWAZ, ASAD M	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/077,284

**Applicant(s)**

HARRINGTON, JEFFREY M.

**Examiner**

Asad M Nawaz

**Art Unit**

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☒ Claim(s) 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. Claims 1-47 are presented for examination.
2. The references presented in the information disclosure statements have been considered.

### ***Specification***

3. The use of the trademark FLASH has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

4. Claim 47 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It appears that changing the dependency of claim 47 from claim 1 to any of claims 41-46 would alleviate the objection.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the use of a trademark should be accompanied or replaced by generic terminology.
7. Claims 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner suggests to replace "A program resident on a memory device..." with "A computer program stored on a computer readable memory device..."

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 27 and 39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 27 is directed to a data structure per se. Although the claim recites a data structure receiving a programming signal and URI, retrieving the movie, loading the movie, and presenting the movie, they lack limitations to indicate as to how the data structure's functionalities (i.e., functional

interrelationship between the data structure and the application program that permits the data structure's functionality to be realized) are realized. See MPEP

2106.IV.B.1.(a). Claim 39 exhibits similar deficiencies with respect to the computer-readable data transmission medium and the program/software component.

10. Claims 41-47 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A signal embodied in a transmission media that is capable of receiving a programming signal and URI, retrieving the movie, loading the movie, and presenting the movie is claimed. However, the data described does not define any functional interrelationships between the claimed elements such that functionality can be realized. (See 2106.IV.B.1.(a).)

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-47 are rejected under 35 U.S.C. 102(b) as being taught by Chaddha et al (US Patent 6,173,317) hereinafter referred to as Chaddha.

As to claim 1, Chaddha teaches a method for synchronizing a programming signal with a movie on a client device, the method comprising: receiving a programming signal on a client device, receiving an URI, wherein the URI specifies a location in a

network from where a movie which relates to the programming signal can be obtained; retrieving the movie from the location; loading the movie on the client device, the client device including a player; and receiving a command at the client device from the server, the command directing the movie on the client device. (Abstract; col 2, lines 50-57; col 5, lines 10-54; col 8, lines 3-21)

Claims 12, 20, 22, 27, 28, 33, 34, 35, 39, and 40 are essentially the method, program, system, apparatus, memory, computer readable media, and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 2, Chaddha teaches the method of claim 1, wherein the programming signal includes at least one of a video signal, an audio signal, a streaming video signal, and a streaming audio signal. (col 1, lines 55-58)

Claim 21 is essentially the system for the above-mentioned method and is thus rejected under similar rationale.

As to claim 3, Chaddha teaches the method of claim 1, wherein the URI is included as at least one of received with the programming signal, embedded in the programming signal, and embedded in a vertical blanking interval of the programming signal. (Abstract; col 2, lines 50-57)

Claims 26 and 42 are essentially the apparatus and signal for the above mentioned claim and are thus rejected under similar rationale.

As to claim 4, Chaddha teaches the method of claim 1, wherein the network includes at least one of a publicly accessible network, a privately accessible network, a

distributed community network, a wireless network, an extranet, an Internet, and an intranet. (col 2, lines 26-37)

Claim 36 contains similar limitations as the above-mentioned method and is thus rejected under similar rationale.

As to claim 5, Chaddha teaches the method of claim 1, wherein the client device includes a Web browser having a plug-in. (col 8, lines 22-30)

Claims 14 and 43 are essentially the program and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 6, Chaddha teaches the method of claim 5, wherein the Web browser includes a receiver in communication with a bridge layer, the bridge layer for transmitting the command to the movie.(Abstract; col 2, lines 26-37)

Claim 15 is essentially the program for the above-mentioned method and is thus rejected under similar rationale.

As to claim 7, Chaddha teaches the method of claim 6, wherein the receiver includes at least one of a receiver applet, an ActiveX control, a Java applet, and a persistent socket function of a movie. (Abstract; col 2, lines 26-37)

Claims 13 and 16 are essentially the program for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 8, Chaddha teaches the method of claim 1, wherein the command is received through the playback of a playlist residing on a server. (Abstract; col 2, lines 47-67)

Claims 17, 29, and 44 are essentially the program, method, and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 9, Chaddha teaches the method of claim 1 wherein the command is generated by a producer connected with the network. (col 7, lines 7-14)

Claims 18, 30, and 45 are essentially the program, method, and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 10, Chaddha teaches the method of claim 1, wherein the Flash player includes at least one of an email client capable of displaying movies, a projector, a plug-in with persistent socket capabilities, a projector with persistent socket capabilities, and a projector used as a screen saver. (col 1, lines 55-58)

Claims 18 and 46 are essentially the program and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 11, Chaddha teaches the method of claim 1, wherein the command is received via a persistent socket. (col 8, lines 56-59)

Claims 37 and 47 are essentially the method and signal for the above-mentioned claim and are thus rejected under similar rationale.

As to claim 23, Chaddha teaches the apparatus of claim 22, wherein the at least one presentation device includes a first presentation device for presenting the programming signal and a second presentation device for presenting the movie. (col 8, lines 14-21)

As to claim 24, Chaddha teaches the apparatus of claim 22, wherein the presentation device presents the programming signal on a first layer and the movie on a second layer.(Abstract; col 2, lines 26-37)

As to claim 25, Chaddha teaches the apparatus of claim 22, wherein the presentation device presents the programming signal on a first window and the movie on a second window. (Abstract; col 2, lines 47-67)

As to claim 31, Chaddha teaches the method of claim 28, wherein the command is generated live. (col 7, lines 53-59)

As to claim 32, Chaddha teaches the method of claim 28, wherein the command is received via a command line interface. (col 5, lines 45-54)

As to claim 38, Chaddha teaches the method of claim 35, wherein the real-time data feed includes at least one of a stock ticker, a sports ticker, a news ticker, an advertising ticker, and a current event ticker.(col 6, lines 64-67)

### ***Conclusion***


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2155

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
AMN

  
BHARAT BAROT  
PRIMARY EXAMINER